

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SCCT-01 CIAE-00 DODE-00 PM-04

H-02 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 USIA-06 IO-11 ACDA-05 /076 W

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P R 201414Z FEB 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 6609

USMISSION USBERLIN PRIORITY

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 02893

E.O. 11652: GDS

TAGS: PGOV, PFOR, WB, GW

SUBJECT: POSSIBLE FEDERAL PROSECUTION OF LORENZ  
KIDNAPPING

REFS: (A) USBER 307; (B) USBER 262; (C) USBER 252;  
(D) BONN 2056

SUMMARY: WE HAVE HAD BOTH QUADRIpartite AND TRIpartite DISCUSSIONS OVER LAST FEW DAYS OF LORENZ CASE PROSECUTION AND SOVIET PROTEST, WITH INCONCLUSIVE RESULTS. FRG REP HAS INFORMED ALLIES THAT FRG STUDY OF LEGAL SITUATION GOING VERY SLOWLY. ALL REPS HAVE AGREED IT IS DESIRABLE THAT BERLIN MISSIONS PROCEED WITH DRAFTING OF POSSIBLE RESPONSE TO SOVIET PROTEST, BUT NO AGREEMENT HAS BEEN REACHED ON ACTUAL USE OF RESPONSE. ALLIES HAVE EXPRESSED UNHAPPINESS OVER BUBACK'S PUBLICITY HOUNDING. END SUMMARY.

1. ALLIES WERE INFORMED BY FRG REPS IN BONN GROUP THAT  
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THE FEDERAL PROSECUTOR GENERAL (P6) AND THE JUSTICE

MINISTRY ARE PROCEEDING WITH THEIR STUDIES OF THE LORENZ CASE PROSECUTION, BUT MUCH MORE TIME IS NEEDED AND THE ALLIES SHOULD NOT EXPECT ANYTHING IN THE NEAR FUTURE.

2. FRG REP (HENZE) ASKED HOW LONG THE ALLIED GOVERNMENTS WOULD NEED TO CONSIDER RESULTS OF FRG STUDIES -- IF CONCLUSION WAS THAT PROSECUTION MUST BE DONE BY PG IN BERLIN -- BEFORE THEY COULD REACH A DECISION. HENZE SAID HE WOULD LIKE TO GIVE PG AN INDICATION OF TIME REQUIREMENT IN ORDER TO AVOID ALLIES BEING PUT UNDER TIME PRESSURE. ALLIED REPS INDICATED IT WAS IMPOSSIBLE TO GIVE A FIGURE; WHAT WAS IMPORTANT WAS THAT SUFFICIENT TIME WOULD BE AVAILABLE FOR CAREFUL THOUGHT AND FULL CONSULTATION. HENZE RESPONDED THAT THE FOREIGN OFFICE WOULD NOTIFY THE JUSTICE MINISTRY THAT THE BONN GROUP NEEDS DETAILED INFORMATION ASAP AND WILL NEED ADEQUATE TIME TO CONSIDER AND CONSULT AFTER JUSTICE MINISTRY AND PG CONCLUSIONS ON LEGAL SITUATION HAD BEEN REACHED AND PASSED TO BONN GROUP.

3. REGARDING ANY FURTHER REPLY TO SOVIET PROTEST ON POSSIBLE FEDERAL PROSECUTION IN BERLIN, FRG REPS HAVE TAKEN POSITION THAT RELATIVELY RAPID FORMAL REPLY IS NECESSARY IN ORDER TO AVOID IMPRESSION THAT ALLIES ACCEPT SOVIET CONTENTIONS. IN RESPONSE, ALLIES HAVE NOTED GOOD ON-THE-SPOT REPLY MADE BY US POLAD, WHICH APPEARS TO COVER THE FRG FEARS AT LEAST IN SHORT TERM. FRENCH AND UK REPS HAVE PARTICULARLY EXPRESSED VIEW THAT THERE IS NO NEED TO RUSH BACK WITH FORMAL REPLY. WE HAVE TAKEN LINE, HOWEVER, THAT CONSIDERATION SHOULD BE GIVEN TO MAKING FORMAL REPLY SOONER RATHER THAN LATER. IN ABSENCE OF REPLY, ANY DECISION AGAINST FEDERAL PROSECUTION IN BERLIN COULD BE SEEN AS ACQUIESCENCE IN SOVIET POSITION -- WHICH COULD ENCOURAGE USSR TO ATTACK EXISTENCE IN BERLIN OF OFFICE OF PROSECUTOR GENERAL REPRESENTATIVES. ALL REPS AGREE THAT FORMAL REPLY SHOULD, IN ANY EVENT, BE MADE PRIOR TO PUBLIC ANNOUNCEMENT OF DECISION ON PROSECUTION.

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4. ALLIED REPS HAVE ALSO COMPLAINED TO GERMAN COLLEAGUE ABOUT BUBACK INTERVIEW IN FEB. 16 DER SPIEGEL. THE INTERVIEW FOCUSED PRIMARIY ON BAADER-MEINHOF TRIAL AND ON PROBLEMS OF COMBATING TERRORISM BY JUDICIAL PROCESS BUT (AS USBER NOTED IN REF A) DID DIRECTLY CONCERN LORENZ CASE

PROSECUTION IN ONE EXCHANGE:

--BUBACK: THE LORENZ KIDNAPPING IS MOST CERTAINLY  
A CASE OF SPECIAL SIGNIFICANCE. ANOTHER ASPECT IS THAT  
CONSTITUTIONAL ORGANS WERE BLACKMAILED IN THIS CASE AND

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P R 201414Z FEB 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 6610

USMISSION USBERLIN PRIORITY

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 02 BONN 02893

THE PG IS CONSEQUENTLY COMPETENT WITHOUT QUESTION. SINCE  
THE FEDERAL GOVERNMENT, THE BERLIN SENAT AND THE LAND  
GOVERNMENTS OF NORTHRHINE WESTPHALIA AND OF BAVARIA  
WERE BLACKMAILED, I COULD PROSECUTE IN DUESSELDORF OR  
MUNICH AS WELL AS IN BERLIN.

--SPIEGEL: REALLY? THE ALLIES ARE SAID TO  
HAVE RAISED MISGIVINGS AGAINST PROSECUTION IN BERLIN  
FOR BLACKMAILING FEDERAL CONSTITUTIONAL ORGANS.

--BUBACK: I KNOW NOTHING ABOUT MISGIVINGS OF THE  
ALLIES. NATURALLY WE MUST INFORM THEM IN ADVANCE - SO  
THEY CAN COVER US IF THE EAST PROTESTS. ANYWAY, THE

FILES HAVE JUST ARRIVED HERE.

--SPIEGEL: WILL THERE BE A QUICK PROSECUTION IN  
THIS CASE?

--BUBACK: I CONSIDER IT AN ILLUSION TO THINK  
THAT WE CAN COUNT ON BEGINNING THE PROSECUTION IN THE  
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FORESEEABLE FUTURE -- CERTAINLY NOT IN THIS YEAR. . . .

5. ALLIED REPS EXPRESSED PARTICULAR INTEREST IN BUBACK'S  
STATEMENTS RE PROSECUTION IN DUESSELDORF OR MUNICH AND  
INDICATED THEIR ASSUMPTION THAT THIS -- AND OTHER  
POSSIBLE ALTERNATIVES TO PROSECUTION IN BERLIN -- WAS  
BEING CONSIDERED IN FRG STUDY. FRENCH REP HAS ALSO TOLD  
US AND UK REPS HE IS PARTICULARLY FURIOUS ABOUT INTER-  
VIEW SINCE, WITH REMARKS ABOUT MUNICH AND DUESSELDORF'  
BUBACK HAS DEPRIVED ALLIES OF POSSIBILITY OF TELLING  
SOVIETS THAT FEDERAL PROSECUTION IN BERLIN WAS  
NECESSARY OR EVEN LEGALLY REQUIRED.

6. COMMENT AND ACTION REQUESTED: IN LIGHT OF  
DIFFERING VIEWS HERE REGARDING REPLY TO SOVIET PROTEST,  
WE WOULD APPRECIATE BENEFIT OF DEPARTMENT'S THOUGHTS.  
HILLENBRAND

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## Message Attributes

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**To:** STATE USBERLIN  
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